



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Babak E. ARFAA

Examiner: Wen Tai Lin

Application Ser. No.: 09/846,206

Group Art Unit: 2154

Filed: 05/02/2001

For: SYSTEMS, DEVICES, PROGRAMS, AND PROCEDURES ...  
METHODS TO USE, METHODS OF DOING BUSINESS, AND  
BUSINESS METHODS

081601.00001

September 13, 2007

**DECLARATION UNDER 37 C.F.R. §1.131**

I, Babak E. Arfaa, do hereby declare and say:

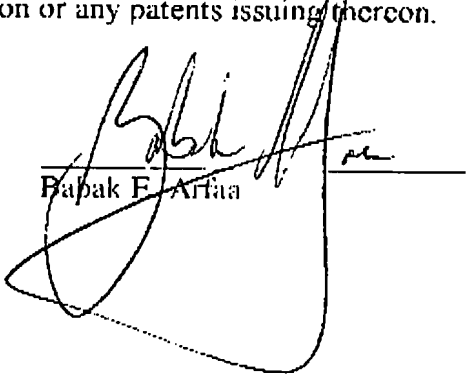
1. My residence address is 2310 Cullum Road, Bel Air, Maryland 21015.
2. I am the sole inventor of the claimed subject matter in the above-identified patent application.
3. I conceived of the invention in Baltimore, Maryland prior to January 2000. A written description of the invention was incorporated into a business plan for highwayLUV, Inc. shown to others prior to January 2000. The business plan was presented to a Managing Director, Investment Banking, of Dominick & Dominick LLC in New York City and to a Business Development Partner of Qwest Communication Corporation. Exhibit A is a copy of communication to Jay McKeage, of Dominick & Dominick LLC and Exhibit B is a copy of a nondisclosure agreement with Richard McGuire of Qwest Communication Corporation prior to disclosing the business plan to either party.

4. From the time of conception, prior to January 2000, until the invention was constructively reduced to practice, I worked diligently to prepare a patent application.
5. The invention was constructively reduced to practice on May 2, 2000 by filing patent application serial number 60/201,316. A second provisional patent application for the invention was filed November 30, 2000 and assigned application serial number 60/253,987. The invention was actually reduced to practice in the fall of 2000. The actual reduction to practice included establishing developing a repository for electronic addresses and creating software to enable the messaging service, as such terms are recited in the claims.
7. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patents issuing thereon.

September 13, 2007

Date

1/2539872

  
Babak F. Arfaa

August 10, 1999

Jay F. McKeage, Managing Director  
Financial Square  
32 Old Slip  
New York, NY 10005

Bob Ernest Arfaa  
2310 Cullum Rd.  
Bel Air, MD 21015

Dear Jay,

I first want to thank you for taking time from your vigorous schedule to consider the ideas I am trying to turn into businesses. I am quite certain that if you feel they are significant at all, we can obtain blockbuster results out of each.

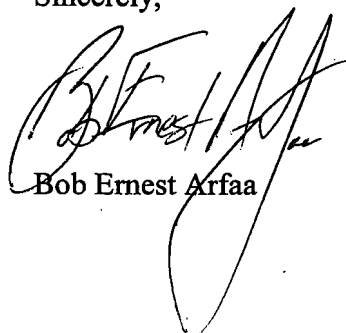
The first is "**PharmaKarma**", a start-up company expecting to (co)develop and (co)market a pharmaceutical composition indicated for the 'immediate and sustained relief of heartburn symptoms'. In all likelihood, this will probably be the second idea you want to consider because of what I call "seasoning" issues associated with the patent process: in general, gastrointestinal medicines take 2-3 years to be successfully maneuvered through the United States Patent Office. Nevertheless, I have seen pharmaceutical companies with much of their value stemming solely from drugs in the development pipeline awaiting patent and/or FDA approval.

The second is "**highwayLUV.com**", an Internet company expecting to create one of the most populated on-line sites to date because of its manner of creating community, then connectivity, and therefore its resulting commercial applications from each. Despite the recent flattening of most Internet companies' valuations, this idea should probably be pushed as hard, and as fast as possible because of the extreme importance of being FIRST when it comes to new Internet ideas: especially this one, as you will see.

Because I still have some work to do in order to finish the business plans of both (mostly with respect to the prospective management team), I have only enclosed Confidentiality Agreements in this mailing. You can expect the business-plans within several weeks.

Thanks again for all your time, and for your considerations.

Sincerely,



Bob Ernest Arfaa

EXHIBIT A

## NONDISCLOSURE AGREEMENT

THIS NONDISCLOSURE AGREEMENT (the "Agreement") is made and entered into as of this 27<sup>th</sup> day of September, 1999 (the "Effective Date"), by and between highwayLUV.com and Qwest Communications Corporation ("Qwest"), with offices located at 555 Seventeenth, Denver, Colorado 80202. For purposes of this Agreement highwayLUV.com and Qwest are sometimes collectively referred to as the "Parties" and individually referred to as a "Party". As used herein, "Receiving Party" shall mean the party which has been given "Confidential Information" (as hereinafter defined) or "Trade Secrets" (as hereinafter defined) by and of the other Party.

A. The Parties are discussing and from time to time, following the Effective Date hereof, will have discussions in connection with potential arrangements for the provisioning of telecommunications and other related services, including, without limitation, the disclosure of certain Confidential Information and/or Trade Secrets (each such discussion is hereinafter referred to individually as a "Discussion").

B. In order to protect the Parties' substantial investment in their Confidential Information and Trade Secrets and to protect the goodwill associated with their customer, client and contractor relationships, the Parties have agreed to abide by the terms and conditions of this Agreement.

For and in consideration of the above premises and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. Definitions. The following terms shall have the following meanings when used in this Agreement:

(a) "Confidential Information" shall mean the proprietary and confidential data or information of a Party, other than "Trade Secrets" (as defined below), which is of tangible or intangible value to that Party and is not public information or is not generally known or available to that Party's competitors but is known only to that Party and those of its employees, independent contractors, consultants or agents to whom it must be confided in order to apply it to the uses intended, including, without limitation, information regarding that Party's customers or prospective customers, marketing methods, business plans and/or rates gained by the other Party as a result of the other Party's participation in a Discussion. In addition, the definition of "Confidential Information" shall include those items specifically identified as "Trade Secrets" in Section 1(c), if it is judicially determined that any such items are not trade secrets, as defined by applicable law, and such items otherwise meet the definition of "Confidential Information" as contained in this Section 1(a). Confidential Information shall not include information which: (i) at the time of disclosure to Receiving Party is in the public domain through no act or omission of Receiving Party; (ii) as shown by written records, is already known by Receiving Party; or (iii) is revealed to Receiving Party by a third party who does not thereby breach any obligation of confidentiality and who discloses such information in good faith.

(b) "Entity" shall mean any person, partnership, joint venture, agency, governmental subdivision, association, firm, corporation or entity.

(c) "Trade Secrets" shall mean that portion of Confidential Information which constitutes trade secrets, as defined by applicable law and including, without limitation, confidential computer programs, software, designs, processes, procedures, equipment, data, reports, product specifications, formulas, improvements, on-line terminal designs, software applications and knowledge of the existence of any existing or proposed contracts with third parties, whether copyrightable or not.

2. Consideration. The consideration for the covenants and agreements of each Party contained in this Agreement shall be that Party's right to participate in a Discussion, which the Parties acknowledge and agree shall constitute sufficient and adequate consideration.

3. Nondisclosure; Ownership of Proprietary Property.

(a) Each Party hereby acknowledges that it is in the best business interests of the other Party to insist on the strict confidentiality of any of its Trade Secrets and Confidential Information that may be disclosed as a result of a Discussion.

(b) In recognition of the Parties' need to protect their legitimate business interests, each Party hereby covenants and agrees that it shall regard and treat each item of information or data constituting a Trade Secret or Confidential Information of the other Party as strictly confidential and wholly owned by the other Party and that it will not, for any reason or in any manner, either directly or indirectly, use, sell, lend, lease, distribute, license, give, transfer, assign, show, disclose, disseminate, reproduce, copy, appropriate or otherwise communicate any such item of information or data to any person or Entity for any purpose other than strictly in accordance with the express terms of this Agreement or any other written agreement between the Parties. With regard to each item of information or data constituting a Trade Secret, the covenant in the immediately preceding sentence shall apply at all times during a Discussion and for as long after the cessation of a Discussion as such item continues to constitute a trade secret under applicable law; and with regard to any Confidential Information, the covenant in the immediately preceding sentence shall apply at all times during a Discussion and for three (3) years after the termination of a Discussion.

QWEST CONFIDENTIAL

(c) Each Party shall exercise its best efforts to ensure the continued confidentiality of all Trade Secrets and Confidential Information known by, disclosed or made available to that party or that Party's employees or personnel during a Discussion. Each Party shall immediately notify the other Party of any intended or unintended, unauthorized disclosure or use of any Trade Secrets or Confidential Information by that Party or any other person of which that party becomes aware. Each Party shall assist the other Party, to the extent necessary, in the procurement or any protection of the other Party's rights to or in any of the Trade Secrets or Confidential Information.

(d) Upon termination of a Discussion, or anytime at the specific request of the other Party, or upon the execution of any agreement resulting from a Discussion containing provisions that expressly supersede the provisions of this Agreement, each Party shall return to the other Party all written or descriptive materials of any kind that contain or discuss any Confidential Information or Trade Secrets, and the confidentiality obligations of this Agreement shall continue until their expiration under the terms of this Agreement.

4. Remedies: Damages, Injunctions and Specific Performance. The Parties expressly understand and agree that the covenants and agreements to be rendered and performed by the Parties pursuant to Section 3 are special, unique, and of an extraordinary character, and in the event of any default, breach by either Party of Section 3, the other Party shall be entitled to such relief as may be available to it pursuant hereto, at law or in equity, including, without limiting the generality of the foregoing, any proceedings to: (i) obtain damages for any breach of this Agreement; (ii) order the specific performance thereof; or (iii) enjoin the breach of such provisions. This Agreement shall be governed by the laws of the State of New York without regard to its choice of law principles.

5. Binding Effect and Assignability. The rights and obligations of each Party under this Agreement shall inure to the benefit of and shall be binding upon any subsidiary, affiliate, successor or permitted assign of or to the business of such Party, to the extent provided below. Neither this Agreement nor any rights or obligations of either Party under this Agreement shall be transferable or assignable by that Party without the prior written consent of the other Party, and any attempted transfer or assignment of this Agreement by either Party not in accordance herewith shall be null and void. Notwithstanding the foregoing, Qwest may assign this Agreement immediately, without the prior written consent of the other Party (a) to any entity that controls, is controlled by, or is in common control with Qwest or (b) to any successor in interest to Qwest or (c) if necessary to satisfy the rules, regulations and/or orders of any federal, state or local governmental agency or body.

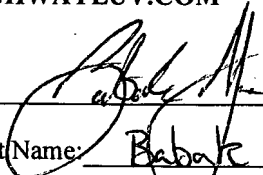
6. Severability. All sections and subsections of this Agreement are severable, and the unenforceability or invalidity of any of the sections or subsections of this Agreement shall not affect the validity or enforceability of the remaining sections or subsections of this Agreement, but such remaining sections or subsections shall be interpreted and construed in such a manner as to carry out fully the intention of the parties.

7. Waiver. The waiver by either Party of a default or breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent default or breach of the same or of a different provision by that Party. No waiver or modification of this Agreement or of any covenant, condition, or limitation contained in this Agreement shall be valid unless in writing and duly executed by the Party or Parties to be charged therewith.

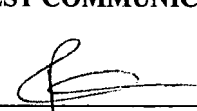
8. Miscellaneous. This Agreement contains the complete agreement concerning the arrangement between highwayLUV.com and Qwest regarding its subject matter, as of the date hereof, and supersedes all other similar agreements or understandings between the parties, whether oral or written, consistent or inconsistent, with this Agreement. This Agreement may not be amended by the Parties except by a writing executed by both Parties. Any Exhibit to this Agreement is to be deemed a part of this Agreement and the contents of any such Exhibit are hereby incorporated by this reference into this Agreement.

IN WITNESS WHEREOF, the Parties have duly executed and delivered this Agreement, as of the Effective Date.

HIGHWAYLUV.COM

By:   
Print Name: Babak Arfa  
Title: CEO  
Date: 9/27/99

QWEST COMMUNICATIONS CORPORATION

By:   
Print Name: Richard McGuire  
Title: Regional Vice President  
Date: 10-5-99

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